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**MEMO ENDORSED**

December 24, 2014

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**BY FACSIMILE**

The Honorable James C. Francis  
United States Magistrate Judge  
United States Courthouse  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

USDS SDNY  
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Re: *Nunez, et al., v. City of New York, et al.*, 11 Civ. 5845 (LTS) (JCF)

Dear Judge Francis:

This office, together with The Legal Aid Society Prisoners' Rights Project and Emery Celli Brinckerhoff & Abady, is counsel for the Plaintiff Class in this matter. Emery Celli Brinckerhoff & Abady, together with The Legal Aid Society Prisoners' Rights Project, also are counsel for the Plaintiffs in their individual damages claims. We write, jointly with counsel for The City of New York ("City"), as per the December 5, 2014 joint letter to the Court, to update the Court on settlement discussions regarding classwide claims, and request a status conference before Your Honor.

Since December 5, 2014, Plaintiffs and the United States Attorney's Office for the Southern District of New York ("USAO")<sup>1</sup> have provided the City with specific proposed language for sections of the settlement agreement addressing the following topics: (1) the Use of Force Policy, (2) Use of Force Investigations, (3) the Safety and Supervision of Inmates Under the Age of 19, and (4) Discipline for Inmates Under the Age of 19.

The parties jointly request a continued stay, through January 20, 2015, of Court-ordered class-related deadlines in order to continue our settlement discussions. If Your Honor grants this request, the parties have agreed to schedule three consecutive meetings on January 14-16, 2015, to discuss the four above-listed topics, in order to reach agreement on each of them, subject only to integration into a final agreement once a complete settlement on all topics is reached.

The parties respectfully request that the Court schedule a status conference shortly after the above-described meetings. At the status conference the parties will advise the Court whether we have reached agreement on the above topics. The parties also will address whether a continued stay of Court-ordered class-related deadlines is warranted at that time. If the parties believe that a continued stay is warranted, the parties intend to provide the Court with a plan regarding continued settlement discussions.

<sup>1</sup> On December 23, 2014, the Court granted the consented-to USAO motion to intervene in this case (Dkt. No. 181).

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The City will make best efforts, by January 8, 2015, to identify any substantive disagreements it has with the language proposed by the Plaintiffs and the USAO on the four above-listed topics, the nature of each such disagreement, and the City's counter-proposal, and will, in any event, do so no later than noon on January 12, 2015.

The City has committed to ensuring that the appropriate decision-makers with settlement authority will attend the three meetings on January 14, 15 and 16, or will participate via teleconference, as needed. Plaintiffs and the USAO have conveyed to the City that they believe it is necessary at this point for DOC Commissioner Ponte and Corporation Counsel Carter to participate in person whenever possible to make the meetings as productive as possible. Plaintiffs intend to have their expert consultants attend the meetings as well, so that the meetings can focus to the maximum extent on dialogue between non-lawyers who are expert on the substantive issues.

Furthermore, to continue the settlement process, prior to the meetings Plaintiffs, in conjunction with the USAO, will provide written responses on a rolling basis to the City's proposed settlement language on the following additional topics: (5) Inmate Arrests, (6) Screening and Assignment of Staff, (7) Video Camera Surveillance, (8) Accountability and Discipline, (9) Use of Force Incident Reporting, and (10) Risk Management.

In light of these developments, Plaintiffs and the City respectfully request a continued stay, through January 20, 2015, of Court-ordered class-related deadlines, and that a conference be scheduled that week before Your Honor.

We appreciate the Court's consideration.

Respectfully yours,

William Sussman /JR

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12/29/14  
Application granted.  
so ORDERED.  
James C. Francis IV  
JSM-J